

DOCKET NO.: MBI-1067



LITIGATED REISSUE

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REISSUE APPLICATION
COMBINED DECLARATION AND POWER OF ATTORNEY BY LEGAL
REPRESENTATIVE OF DECEASED INVENTOR UNDER 35 USC §117 AND 37 CFR 1.42

I, Grace C. Petterson, M.D., hereby declare that:

- (1) My residence, post office address and citizenship are as stated below next to my name;
- (2)(a) I am the legal representative of Mr. Tor H. Petterson (hereinafter "Mr. Petterson"), who is now deceased. Mr. Petterson was an inventor in letters patent number 6,038,784, granted on March 21, 2000 (hereinafter "the patent" or "the original patent").

(b) I verily believe that Mr. Petterson was an original, first and joint inventor of the subject matter that is claimed in the original patent (hereinafter "the patent" or "the original patent") (with his co-inventor being Mr. Steven B. Dunn, having an address of 2069 Coldwater Canyon Beverly Hills, CA 90210) and in the foregoing specification and for which invention I solicit a reissue patent;

ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

- (3) I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims;
- (4) I acknowledge the duty to disclose all information known to be material to the patentability of this application in accordance with 37 C.F.R. §1.56;

(x) In compliance with this duty attached herewith is an Information Disclosure Statement in accordance with 37 C.F.R. §1.97.

**STATEMENT OF INOPERATIVENESS OR INVALIDITY OF
ORIGINAL PATENT UNDER 37 C.F.R. §1.175**

- (5) I hereby state that I believe the original patent to be partly inoperative because we claimed less than we were entitled to claim.
- (6) The reasons I believe the original patent to be partly inoperative are as follows:

(a) The original claims do not recite in combination an apparatus for supporting baby bottles and related accessories for drying including a tray having a bottom portion that is adapted to be supported by an underlying surface such as a countertop, an upper portion and at least two sidewalls;

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a plurality of pegs extending outwardly from the upper portion, each of the pegs being sized and arranged to be able to support a baby bottle; and at least one axle for mounting the pegs for common arcuate movement between a first storage position, wherein the entire peg is positioned substantially adjacent to the upper portion for storage and packaging of the apparatus, and a second operative position, wherein the peg is positioned so as to extend outwardly from the first portion, the axle being mounted for rotation within a pair of opposed journal holes that are defined in the sidewalls, the journal holes being elevated with respect to the upper portion of the tray so as not to receive water from the upper portion of the tray during normal use of the apparatus. I consider this to be an important aspect of the invention.

(b) The original claims do not recite in combination an apparatus for supporting baby bottles and related accessories for drying including a tray having a bottom portion that is adapted to be supported by an underlying surface such as a countertop and an upper portion; a plurality of pegs extending outwardly from the upper portion, each of the pegs being sized and arranged so as to be able to support a baby bottle; and at least two axles, each of the axles connected to at least two of the pegs for mounting the pegs for common arcuate movement between a first storage position, wherein the entire peg is positioned substantially adjacent to the upper portion for storage and packaging of the apparatus, and a second operative position wherein the axles are oriented so that movement of the pegs on a first of the axles when moving from the first storage position to the second operative position is substantially in the same rotation direction as movement of the pegs on a second of the axles when moving from the first storage position to the second operative position. I also consider this to be an important aspect of the invention.

(c) The ring support member that is indicated by reference numeral 32 in the drawings of the original patent is variously referred to in the originally filed disclosure as both a "nipple support member" and a "ring support member." In addition, claims 11 and 12 of the original patent refer to this element as a "ring support member," while claims 13-16, which directly or indirectly depend from claim 11, use the term "nipple support member." This introduces confusion into the original patent that, while it is not felt to be severe enough to render any of the claims invalid, might increase the judicial and legal expenses of enforcing the original patent.

(7) Accordingly, new claims 5-15 are proposed that are intended to claim the above-discussed aspects of the invention in their appropriate scope. Specifically:

(a) New dependent claim 5 is provided to protect the concept described in Section 6(a) that was not claimed in the original patent. It recites an apparatus for supporting baby bottles and related accessories for drying including a tray having a bottom portion that is adapted to be supported by an underlying surface such as a countertop, an upper portion and at least two sidewalls; a plurality of pegs extending outwardly from the upper portion, each of the pegs being sized and arranged so as to be able to support a baby bottle; and at least one axle for mounting the pegs for common arcuate movement between a first storage position, wherein the entire peg is positioned substantially adjacent

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to the upper portion for storage and packaging of the apparatus, and a second operative position, wherein the peg is positioned so as to extend outwardly from the first portion, the axle being mounted for rotation within a pair of opposed journal holes that are defined in the sidewalls, the journal holes being elevated with respect to the upper portion of the tray so as not to receive water from the upper portion of the tray during normal use of the apparatus.

(b) New dependent claims 6-12 are provided to protect the inventive concept set forth in new claim 5 in conjunction with additional structure which, in combination with the subject matter of claim 5, is felt to independently constitute protectable subject matter that was not protected by the original patent.

(c) New independent claim 13 is provided to protect the concept that is described in section 6(b) that was not claimed in the original patent. It recites an apparatus for supporting baby bottles and related accessories for drying including a tray having a bottom portion that is adapted to be supported by an underlying surface such as a countertop and an upper portion; a plurality of pegs extending outwardly from the upper portion, each of the pegs being sized and arranged so as to be able to support a baby bottle; and at least two axles, each of the axles connected to at least two of the pegs for mounting the pegs for common arcuate movement between a first storage position, wherein the entire peg is positioned substantially adjacent to the upper portion for storage and packaging of the apparatus, and a second operative position wherein the axles are oriented so that movement of the pegs on a first of the axles when moving from the first storage position to the second operative position is substantially in the same rotation direction as movement of the pegs on a second of the axles when moving from the first storage position to the second operative position.

(d) New dependent claims 14 and 15 are provided to protect the inventive concept set forth in new claim 13 in conjunction with additional structure which, in combination with the subject matter of claim 13, is felt to independently constitute protectable subject matter that was not protected by the original patent.

(8) The specification has been amended to change existing references to "nipple support members" to the proper descriptive term for the structure that is indicated by reference numeral 32 in the original patent, which is "ring support members." No new matter has been added.

(9) All errors which are being corrected in the present reissue application up to the time of filing of this declaration arose without any deceptive intention on the part of the applicant.

POWER OF ATTORNEY

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: **John L. Knoble**, Registration No. 32,387 of the firm of **KNOBLE & YOSHIDA, LLC**.

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Address all telephone calls and correspondence to:

John L. Knoble
KNOBLE & YOSHIDA, LLC.
Eight Penn Center - Suite 1350
1628 John F. Kennedy Boulevard
Philadelphia, PA 19103
Telephone No. 215-599-0600.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Inventor's Name: Tor H. Petterson (Deceased)
Address: 96 Yacht Harbor Drive
Rancho Palos Verdes, CA 90275
Citizenship: USA

Grace C. Petterson, M.D.
Legal Representative
Address: 1294 West 6th Street
Suite 102
San Pedro, CA 90731
Citizenship: USA

Signature:


Grace C. Petterson, M.D.
Legal Representative

Date:

7-10-02

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**REISSUE APPLICATION
COMBINED DECLARATION AND POWER OF ATTORNEY
BY INVENTOR**

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TECHNOLOGY CENTER R370

I, Steven B. Dunn, hereby declare that:

- (1) My residence, post office address and citizenship are as stated below next to my name;
- (2) I verily believe that I am an original, first and joint inventor (with Tor H. Petterson, now deceased, whose legal representative is now Grace C. Petterson, M.D., having an address of 1294 West 6th Street, Suite 102, San Pedro, CA 90731) of the subject matter that is claimed in letters patent number 6,038,784 which was granted on March 21, 2000 (hereinafter "the patent" or "the original patent") and in the foregoing specification and for which invention I solicit a reissue patent;

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adjacent to the upper portion for storage and packaging of the apparatus, and a second operative position, wherein the peg is positioned so as to extend outwardly from the first portion, the axle being mounted for rotation within a pair of opposed journal holes that are defined in the sidewalls, the journal holes being elevated with respect to the upper portion of the tray so as not to receive water from the upper portion of the tray during normal use of the apparatus. I consider this to be an important aspect of the invention.

(b) The original claims do not recite in combination an apparatus for supporting baby bottles and related accessories for drying including a tray having a bottom portion that is adapted to be supported by an underlying surface such as a countertop and an upper portion; a plurality of pegs extending outwardly from the upper portion, each of the pegs being sized and arranged so as to be able to support a baby bottle; and at least two axles, each of the axles connected to at least two of the pegs for mounting the pegs for common arcuate movement between a first storage position, wherein the entire peg is positioned substantially adjacent to the upper portion for storage and packaging of the apparatus, and a second operative position wherein the axles are oriented so that movement of the pegs on a first of the axles when moving from the first storage position to the second operative position is substantially in the same rotation direction as movement of the pegs on a second of the axles when moving from the first storage position to the second operative position. I also consider this to be an important aspect of the invention.

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being elevated with respect to the upper portion of the tray so as not to receive water from the upper portion of the tray during normal use of the apparatus.

(b) New dependent claims 6-12 are provided to protect the inventive concept set forth in new claim 5 in conjunction with additional structure which, in combination with the subject matter of claim 5, is felt to independently constitute protectable subject matter that was not protected by the original patent.

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POWER OF ATTORNEY

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: **John L. Knoble**, Registration No. **32,387** of the firm of **KNOBLE & YOSHIDA, LLC**.

Address all telephone calls and correspondence to:

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John L. Knoble
KNOBLE & YOSHIDA, LLC.
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Inventor's Name: Steven B. Dunn
Address: 2069 Coldwater Canyon
Beverly Hills, CA 90210
Citizenship: USA

Signature:


Steven B. Dunn

Date:


7/11/02

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**OFFER TO SURRENDER, ASSENT OF
ASSIGNEE AND POWER OF ATTORNEY**

Munchkin, Inc. ("Munchkin"), a corporation duly organized under the laws of the State of Delaware having a business address of 15955 Strathern Street, Van Nuys, California 91406, is owner, by assignment, of the entire title to United Letters Patent Number 6,125,548, granted October 3, 2000 for a **BOTTLE RACK**. The assignment is recorded at Reel 010785 Frame 0286.

Munchkin hereby offers to surrender said Letters Patent and assents to the accompanying application for reissue of said Letters Patent.

Munchkin hereby appoints the following attorney(s) and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

John L. Knoble
Registration No. 32,387

Please address all correspondence to:

John L. Knoble
KNOBLE & YOSHIDA, LLC.
Eight Penn Center - Suite 1350
1628 John F. Kennedy Boulevard
Philadelphia, PA 19103
Telephone No. 215-599-0600.

MUNCHKIN, INC.

By: ABLL

Title: President/CEO

Date: 7/11/02

Title: STEVEN B. DONN